

DECLARATION AND POWER OF ATTORNEY

As a below-named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

COMPOSITIONS AND METHODS FOR DETERMINING ANTI-VIRAL DRUG SUSCEPTIBILITY AND RESISTANCE AND ANTI-VIRAL DRUG SCREENING

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	<u>X</u> was filed on	July 30, 1998		as
	Application Serial N	0. 09/126,559		
	and was amended		(if appli	cable)
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Applicant: Daniel J. Capon, Jeannette M. Whitcomb and Neil T. Parkin U.S. Serial No.: 09/126,559 Filed: July 30, 1998

Exhibit C



Declaration and Power of Attorney I hereby claim the benefit under Title 35. United States Code. Section 119(e) of any United States provisional application(s) listed below:

Provisional Application No.	Filing Date	<u>Status</u>
60/054,257	July 30, 1997	abandoned
Application(s). or Section 365(c) listed below. Insofar as this application any such prior Application in Code. Section 112. I acknowledge all information known to me to	of any PCT international Applica- cation discloses and claims subjec- the manner provided by the first the duty to disclose to the United	Section 120 of any United States tion(s) designating the United States it matter in addition to that disclosed paragraph of Title 35. United States is States Patent and Trademark Office defined in Title 37. Code of Federal g date(s) of such prior Application(s) on:
Application Serial No.	Filing Date	<u>Status</u>

And I hereby appoint

John P. White (Reg. No. 28,678); Christopher C. Dunham (Reg. No. 22,031); Norman H. Zivin (Reg. No. 25,385); Jay H. Maioli (Reg. No. 27,213); William E. Pelton (Reg. No. 25,702); Robert D. Katz (Reg. No. 30,141); Peter J. Phillips (Reg. No. 29,691); Wendy E. Miller (Reg. No. 35,615); Richard S. Milner (Reg. No. 33,970); Albert Wai-Kit Chan (Reg. No. 36,479); Robert T. Maldonado (Reg. 38,232); Paul Teng (40,837); George M. MacDonald (Reg. No. 39,284); Richard F. Jaworski (Reg. No. 33,515); Elizabeth M. Wieckowski (Reg. No P-42,226); and Pedro C. Fernandez (Reg. No. P-41,741).

and each of them, all co Cooper & Dunham LLP, 1185 Avenue of the Americas. New York, New York 10036, my attorneys, each with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, to transact all business in the Patent and Trademark Office connected therewith and to file any International Applications which are based thereon under the provisions of the Patent Cooperation Treaty.

Please address all communications, and direct all telephone calls, regarding this application to:

John P. White	Reg. No28,678	
Cooper & Dunham LLP		
1185 Avenue of the Americas		
New York, New York 10036		
Tel. (212) 278-0400		
hereby declare that all statements made here nade on information and belief are believed to b he knowledge that willful false statements and t or both, under Section 1001 of Title 18 of the	the like so made are punishable by United States Code and that such w	fine or imprisonment, villful false statements
nay jeopardize the validity of the application	or any patent issued thereon. I "I reserve all rights to captioned Capon v. Vi	a connection wi
Gull name of sole or	capposed Capon V. VI	rolagic, Incetal,
Full name of sole or first joint inventor Daniel J. Capon		7
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Inventor's signature DUCCOC (C	1.11-10	d
Cinizenship U.S.A.	Date of signature 11/12/9	0
Residence 90 Woodridge Road, Hills	borough, CA. 94010, U.S.A.	SUBSCRIBED AND S
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Post Office Address same as above		A MUZ
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	COMM. EXP. SEPT. 18	, 2002 4
Full name of joint inventor (if any) _ Jeannette M. Whitcom	ь	
	+ 161	
Inventor's signature flounds	XXIII	
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	ot. #4, San Mateo, CA. 944	10, U.S.A.
acro ac above		
Post Office Address same as above		
Full name of joint		
inventor (if any) Neil T. Parkin		
X/OND Par	A A	
Inventor's signature New You		/
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Residence 1815 Fernwood Way, Beli	mont, CA. 94010, U.S.A.	
Post Office Address same as above		

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organization having rights to the invention averring to their status as Applicant: Daniel J. Capon, entities. 37 C.F.R. \$1.27.

37 C.F.R. \$\$1.9(c), 1.9(d), 1.9(e)

- (c) An independent inventor as used in this chapter means any inventor who (1) has not assigned, granted, conveyed, or licensed, and (2) is under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not likewise be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small tusiness concern or a nonprofit organization under this section.
- (d) A small business concern as used in this chapter means any business concern as defined by the Small Business Administration in 13 C.F.R. \$121.3-18, published on September 30, 1982 at 47 FR 43273. For the convenience of the users of these regulations, that definition states:
- \$121.3-18 Definition of small business for paying reduced patent fees under Title 35, U.S. Code.
- (a) Pursuant to Pub. L. 97-247, a small business concern for purposes of paying reduced fees under 35 U.S. Code 41(a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average Over the fiscal year of the the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.
 - (b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street, MM., Washington, D.C. 20416 (Attention: SBA Office of General Counsel). The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error; and the facts and arguments supporting the concern's claimed status as a small business concern under this section.
 - (e) A nonprofit organization as used in this chapter means (1) a university or other institution of higher education located in any country; (2) an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)); (3) any nonprofit scientific or educational organization qualified under a nonprofit organization statute of a state of this country (35 U.S.C. 201(i)); or (4) any nonprofit organization located in a foreign country which would qualify as a nonprofit organization under paragraphs (e)(2) or (3) of this section if it were located in this country.

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. 37 C.F.R. \$1.28(b) ..

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these scatements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both. under 18 U.S.C. \$1001, and that such willful false statements may jeopardise the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

	rtin H. Goldstein
Title in Organization: Pt	esident and CEO
Address: 27	O East Frand Avenue
	UCK 944 Brangiaco, CA 94080
	Will se
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Small Entity/Small Business Concern Page 4

37 C.F.R. \$1.28(b)

(b) Once status as a small entity has been established in an application or patent, fees as a small entity may thereafter be paid in that application or patent without regard to a change in status until the issue fee is due or any maintenance fee is due. Notification of any change in status resulting in loss of entitlement to small entity status must be filed in the application or patent prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate pursuant to \$1.9 of this part. The notification of change in status may be signed by the applicant, any person authorized to sign on behalf of the assignee, or an attorney or agent of record or acting in a representative capacity pursuant to \$1.34(a) of this part.